

Notice of Allowability

Application No.

09/502,762

Examiner

Anthony Quash

Applicant(s)

SLISKI ET AL.

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an amendment filed, 4/7/06.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Allowable Subject Matter

Claims 1-20 are allowed over the prior art of record.

The following is an examiner's statement of reasons for allowance: With respect to independent claim 1, the prior art of record does not disclose nor teach a biocompatible radiation shield for use with a radiation applicator system for a radiation source, the radiation applicator system including an applicator head defining a surface having a predefined shape and surface contour, the radiation shield comprising: a substantially thin, biocompatible compatible material, wherein the biocompatible material has a preformed shape conforming to the shape of at least a portion of the surface contour of the applicator head. Since this aspect is not disclosed nor taught by the prior art of record, independent claim 1, and dependent claims 3-6 which also incorporate this aspect are deemed allowable over the prior art of record.

With respect to independent claim 7, the prior art of record does not disclose nor teach a radiation applicator for use with a radiation source for facilitating the application of a dose of radiation to a volume, the radiation applicator system comprising: an adapter including a first coupler suited for mated engagement with the shank proximal end, a second coupler suited for mated engagement with the radiation source, and a biocompatible radiation shield coupled to at least a portion of the head, in combination with the remaining aspects of the claim. Since this aspect is not disclosed nor taught by

the prior art of record, independent claim 7, and dependent claims 8-14 which also incorporate this aspect are deemed allowable over the prior art of record.

With respect to independent claim 15, the prior art of record does not disclose nor teach a kit for applying radiation to a volume, the kit comprising: an adapter including a first coupler suited for mated engagement with the shank proximal end, a second coupler suited for mated engagement with the radiation source, and a biocompatible radiation shield coupled to at least a portion of the head, in combination with the remaining aspects of the claim. Since this aspect is not disclosed nor taught by the prior art of record, independent claim 15, and dependent claims 16-20 which also incorporate this aspect are deemed allowable over the prior art of record.

Applicants' arguments submitted 4/7/06 and those presented in the interview, dated 2/15/06 are persuasive.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Quash whose telephone number is (571)-272-2480. The examiner can normally be reached on Monday thru Friday 9 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571)-272-2477. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A. Quash
A. Quash
5/1/06

Nikita Wells
NIKITA WELLS
PRIMARY EXAMINER 05/01/06